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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/623,584	12/04/2000	Horst Grafe	HM-349 PCT	5053

7590 07/30/2002

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[REDACTED]
EXAMINER

ASHLEY, BOYER DOLINGER

ART UNIT	PAPER NUMBER
3724	

DATE MAILED: 07/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/623,584	GRAFE ET AL.	
	Examiner Boyer D. Ashley	Art Unit 3724	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status			
1) <input type="checkbox"/> Responsive to communication(s) filed on _____.			
2a) <input type="checkbox"/> This action is FINAL .		2b) <input type="checkbox"/> This action is non-final.	
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
Disposition of Claims			
4) <input checked="" type="checkbox"/> Claim(s) <u>1-13</u> is/are pending in the application.			
4a) Of the above claim(s) _____ is/are withdrawn from consideration.			
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.			
6) <input type="checkbox"/> Claim(s) _____ is/are rejected.			
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.			
8) <input checked="" type="checkbox"/> Claim(s) <u>1-13</u> are subject to restriction and/or election requirement.			
Application Papers			
9) <input type="checkbox"/> The specification is objected to by the Examiner.			
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).			
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.			
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.			
Priority under 35 U.S.C. §§ 119 and 120			
13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).			
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.			
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.			
15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.			
Attachment(s)			
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .	
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)	
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .		6) <input type="checkbox"/> Other: _____ .	

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species I - the embodiment shown on Figure 1;

Species II - the embodiment shown on Figure 3.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. The claims are deemed to correspond to the species listed above in the following manner:

Claims 1-7 read on Species I;

Claims 8-13 read on Species II.

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The following claim(s) are generic: none of the claims are generic to all species.

3. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

Species I discloses a flying shear with a support element attached to the drives thereby allowing for two-way adjustment of the upper shear by a piston-cylinder and a crank.

Species II discloses a flying shear with a support element that only has one-way adjustment of the upper shear by a piston-cylinder.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday thru Thursday between 7:30am and 6:00pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.



Boyer D. Ashley
Primary Examiner
Art Unit 3724

bda
July 27, 2002